

EXHIBIT 1

INTRODUCTION

Respondent Byron Wear was elected to the San Diego City Council in November of 1995 and served until December 2, 2002. Under section 87200 of the Political Reform Act (the “Act”)¹ all city council members, as well as other enumerated public officials, are required to file Statements of Economic Interests, disclosing their investments, interests in real property, and income.

As required by the Act, city council members must file an annual statement of economic interests (“SEI”) by April 1 of each year (unless April 1 falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day).² On the SEI, the designated employee must disclose the reportable economic interests that he or she held during the preceding calendar year.

Among sources of income that must be disclosed are outstanding loans. In this matter, Respondent failed to disclose an outstanding loan on an annual statement of economic interests for three consecutive years.

For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1: On or about April 2, 1999, Respondent Byron Wear failed to disclose an outstanding loan from Narciso Zarate Cejo and Sylvia U. Zarate on his 1998 annual statement of economic interests, in violation of sections 87200 and 87207 of the Government Code.
- COUNT 2: On or about March 31, 2000, Respondent Byron Wear failed to disclose an outstanding loan from Narciso Zarate Cejo and Sylvia U. Zarate on his 1999 annual statement of economic interests, in violation of sections 87200 and 87207 of the Government Code.
- COUNT 3: On or about March 29, 2001, Respondent Byron Wear failed to disclose an outstanding loan from Narciso Zarate Cejo and Sylvia U. Zarate on his 2000 annual statement of economic interests, in violation of sections 87200 and 87207 of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure

¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in section 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Regulation 18116.

that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided and in appropriate circumstances the officials should be disqualified from acting.

In furtherance of this purpose, Article 2 of the Act, found at sections 87200-87210, requires members of city councils to file periodic statements disclosing their reportable economic interests. Section 87500, subdivision (f) provides that such statements shall be filed with the city clerk, who must transmit the statements to the Fair Political Practices Commission.

Under section 87203, city council members are required to file an annual statement of economic interests ("SEI"), each year, at a time specified by Commission regulations, disclosing their investments, interests in real property, and income. Under section 87204, city council members are also required to file a leaving office statement of economic interests, within thirty days after leaving office, disclosing their investments, interests in real property, and income.

When a source of income is required to be disclosed on an SEI, section 87207, subdivision (a) provides that the statement shall contain the following information regarding the income:³

- (1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
- (2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).
- (3) A description of the consideration, if any, for which the income was received.
- (4) In the case of a gift, the amount and the date on which the gift was received.
- (5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

³. Section 87207 was amended in 2000, effective January 1, 2001, to raise the amount triggering the income disclosure requirement from \$250 to \$500.

SUMMARY OF THE FACTS

Respondent Byron Wear was elected to the San Diego City Council in November of 1995 and served until December 2, 2002. As a city council member, Respondent Wear was required, under the Act, to file periodic SEIs disclosing his investments, interests in real property, and income. Outstanding loans are included within the sources of income that must be disclosed on SEIs. The Act provides an exception to the loan disclosure requirement if the loans are from certain specified family members or from commercial lenders.

Count 1

Respondent filed a 1998 annual SEI with the San Diego City Clerk, on or about April 2, 1999. The statement covered the period January 1, 1998 through December 31, 1998. On schedule B of the statement, Respondent listed several parcels of real property in which he held an ownership interest. Respondent omitted from his 1998 SEI the fact that he had received a loan, secured by a deed of trust on three parcels of real property.

In 1996, Respondent borrowed \$7,000 from Narciso Zarate Cejo and Sylvia U. Zarate. The loan was secured by a deed of trust on three parcels of real property. The loan remained outstanding at the time Respondent filed his 1998 SEI.

By failing to disclose the outstanding \$7,000 loan on his 1998 SEI, Respondent violated sections 87200 and 87207.

After being contacted by staff from the Enforcement Division, Respondent filed an amendment to his 1998 SEI on October 24, 2001, disclosing the outstanding loan.

Count 2

Respondent filed a 1999 annual SEI with the San Diego City Clerk, on or about March 31, 2000. The statement covered the period January 1, 1999 through December 31, 1999. On schedule B of the statement, Respondent listed several parcels of real property in which he held an ownership interest. Respondent omitted from his 1999 SEI the fact that he had an outstanding loan.

In 1996, Respondent borrowed \$7,000 from Narciso Zarate Cejo and Sylvia U. Zarate. The loan was secured by a deed of trust on three parcels of real property and the loan remained outstanding at the time Respondent filed his 1999 SEI.

By failing to disclose the outstanding \$7,000 loan on his 1999 SEI, Respondent violated sections 87200 and 87207.

After being contacted by staff from the Enforcement Division, Respondent filed an amendment to his 1999 SEI on October 24, 2001, disclosing the outstanding loan.

Count 3

Respondent filed a 2000 annual SEI with the San Diego City Clerk, on or about March 29, 2001. The statement covered the period January 1, 2000 through December 31, 2000. On schedule B of the statement, Respondent listed several parcels of real property in which he held an ownership interest.

Respondent again failed to disclose the loan he received in 1996 from Narciso Zarate Cejo and Sylvia U. Zarate. The loan remained outstanding at the time Respondent filed his 2000 SEI.

By failing to disclose the outstanding \$7,000 loan on his 2000 SEI, Respondent violated sections 87200 and 87207.

After being contacted by staff from the Enforcement Division, Respondent filed an amendment to his 2000 SEI on October 24, 2001, disclosing this outstanding loan.

CONCLUSION

SEI non-disclosure violations are serious violations of the Act. In this case, the non-disclosure involved the existence of an outstanding \$7,000 loan which Respondent failed to disclose for three consecutive years. Respondent had been a public official for several years prior to these violations and should have been well aware of his reporting obligations. In mitigation, after being contacted by the Enforcement Division, Respondent cooperated with the investigation and filed amendments to his SEIs.

This matter consists of three counts, which carry a maximum administrative penalty of Nine Thousand Dollars (\$9,000). The facts of this case, including the factors discussed above, justify imposition of the agreed upon penalty of Seven Thousand Dollars (\$7,000).